

polymeric.

15. The protective sheath of claim 12 wherein the clearance between the inner surface of the hollow sleeve and the outer surface of the elongate ultrasonic probe is sufficiently small so as to effectively form a barrier to the passage of material therewithin.

16. The protective sheath of claim 15 wherein the clearance is 0.01 to 0.50 millimeters.

17. The protective sheath of claim 12 wherein the flange contacts the inner surface of the sleeve.

II. REMARKS

This application is a continuation of patent application Serial No. 09/191,807 that issued as U.S. Patent No. 6,224,565 on May 1, 2001 (the "565 Patent"). During the prosecution of the parent application, the Patent Office raised certain issues regarding whether the then pending apparatus claims were directed to either the ultrasonic probe and/or the protective sheath. (See, for example, the Office Action dated May 24, 2000, at ¶ 4.) The apparatus claims were redrafted

in the form of Claims 1-6 in the '565 Patent, i.e., to a combination of the probe and the protective sheath.¹

The present continuation application was filed on April 9, 2001, to preserve continuity and to present claims that are directed to the features of the protective sheath only. As filed, the continuation application contained Claims 1-11, which are the same as claims presented in the original parent application. The case was expeditiously acted on by the Patent Office on June 19, 2001, before applicant filed a preliminary amendment canceling the original claims and substituting new claims directed to the protective sheath. The current amendment accomplishes that objective. These claims are intended to redefine the invention and are not intended to narrow the scope of the invention. (See, Turbocare v. General Electric Co., 2001 U.S. App. LEXIS 19245 (Fed. Cir. 2001).)

Claims 12 through 17 presented in this Amendment correspond to Claims 1-6 of the '565 Patent, except that the claims are directed to the "protective sheath," rather than "a protective sheath and elongate ultrasonic probe." Accordingly, applicant respectfully submits that these claims should be allowable over the prior art of record in the parent application, including the Geuder and Quaid patents which have been cited again here.

Because of this amendment, applicant respectfully submits that the rejection of "nonstatutory double patenting" based on the '565 Patent is moot. In the event that the Patent Office persists in this rejection, applicant is prepared to file an appropriate terminal disclaimer.

1 The remaining claims of the '565 Patent are method claims.

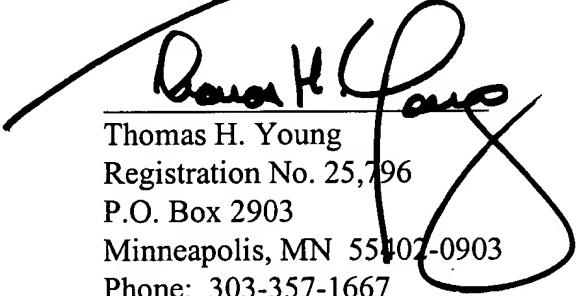
III. CONCLUSION

For the reasons set forth above, applicant respectfully submits that the rejections have been obviated and that the new claims (i.e., Claims 12-17) are in condition for allowance. Prompt allowance is respectfully requested.

It is applicant's belief that no fee (other than that associated with the accompanying request for extension of time) is required in association with this Response. However any deficiency should be credited, or overpayment debited, to Account No. 04-1415 — with reference to Docket No. 40206.0001USC1.

Respectfully submitted this 19th day of December, 2001.

Merchant & Gould, PC


Thomas H. Young
Registration No. 25,796
P.O. Box 2903
Minneapolis, MN 55402-0903
Phone: 303-357-1667

Attorneys for Applicant

